



Return to Work

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Agenda

- Reemployment Process
- Civil Service Retention Rights
- Beginning the Return to Work Process
- Aggressive RTW Approaches
- DOL Return to Work Assistance
- Return to Work Options
- Job Offer Process
- Returning Back to Agency Rolls

Reemployment Process

- To make a job offer, the agency will need medical evidence describing the employee's medical restrictions and can be obtained by the following:
 - Request from the injured employee
 - Review of OWCP case file via ECOMP (only those who have ARI license)
 - Request to the DCPAS Management Advisor
 - Contacting the OWCP Claims Examiner
 - Writing to the attending physician

Civil Service Retention Rights

Once the injured worker resumes employment with the Federal Government, the entire time during which the employee was receiving compensation shall be credited to the employee for the following purposes:

- With-in grade step increases
- Retention purposes
- Other rights and benefits based upon length of service

Retention Rights

Under 5 U.S.C. 8151, an employee who recovers within 1 year of starting compensation has mandatory rights to his or her old position or its equivalent.

An employee who fully or partially recovers after 1 year, he or she is entitled to priority consideration, as long as application is made within 30 days of the date compensation ceases.

Return to Work (RTW) – Beginning the Process

When the medical evidence shows that total disability has ended, the agency is encouraged to consider reemployment.

Return to Work (RTW) – Beginning the Process

What to do when the employing agency has no clear work restrictions for totally disabled injured workers

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RTW – Beginning the Process (cont.)

Doctor's Note:

This certifies that Jane/John Doe has been seen in this office and is currently totally disabled from work.

RTW – Aggressive RTW Approach

When no medical restrictions are not on file, Injury Compensation Program Administrator's (ICPA) should do the following:

- ICPA should request the Office of Workers' Compensation Program (OWCP) case file via ECOMP to obtain current work restrictions
- Complete Duty Status (CA-17) and send to treating physician

RTW – Aggressive RTW Approach (cont.)

If Agency receives no response from treating physician (allow 30 days), ICPA should do the following:

- Request OWCP Claims Examiner to obtain a completed OWCP-5 or detailed narrative from the treating physician.
- DOL allows 30 days to respond
- If no response after 30 days, the OWCP Claims Examiner may consider a second opinion examination

Second Opinion Examinations

- Consider a second opinion exam (secop) when there is little or no progress with attending physician (AP) in RTW effort or with some other case resolution :
- Target review of Periodic Roll (PR) cases first, then claims with other case status
- Attendance and cooperation by claimant at secop exam is mandatory; comp sanctions can be imposed
- Once received, review secop report immediately and discuss any concerns or requests with DOL Claims Examiner (CE) and DoD Advisor
- **RED FLAG:** Ask CE directly what is the next course of action that will be taken based on secop

Second Opinion Examinations (cont.)

- Common **RED FLAGS** in case management that may warrant a secop exam:
- Reluctance by AP to provide work restrictions/release or to increase work capacity
- AP submits no rationale for treatment plan or claimant's work (in)capacity
- AP does not respond to EA's request for medical evidence
- AP is not submitting any medical evidence to OWCP

Independent Medical Examinations (IME)

- Request a Referee or IME referral examination for claimant when:
- There is a clear conflict of medical opinion between the AP and the SECOP specialist
- When neither AP nor SECOP has the *weight of medical evidence* (a tie); consult with CE
- Note that Referee will always have the “weight of medical evidence” in case
- As such, Referee will determine all next case management interventions/resolutions
- **RED FLAGS:**
- Attendance and cooperation by claimant at Referee exam is mandatory; compensation sanctions can be imposed
- It could take OWCP much longer to arrange for an IME than for a SECOP (months)

Department of Labor (DOL) RTW Assistance

DOL provides the following return to work assistance:

- Nurse Intervention
- Vocational Rehabilitation
- Assisted Re-employment with other Federal, State and local government and private sector

RTW Options

For employees on the Agency's rolls, the Agency have the following options:

- Return to the position held at the time of the injury with modifications, if needed
- Offer a different position that is equivalent to DOI position
- Offer a position at a lower salary than the position held at the time of injury

RTW Options (cont.)

- Temporary positions may be offered only to workers who held a temporary position when injured, and if such a job is offered, it must be at least 90 days in duration.
- Agency may offer a position outside the employee's former duty station but must pay relocation cost according the Joint Travel Regulations.

RTW Options (cont.)

Employee not on the Agency rolls

Once compensation ceases, the injured employee has 30 days to notify the Agency they can return to work.

The Agency should put forth an effort in identifying a suitable job adhering to the employee's medical restrictions, if applicable.

RTW Options (cont.)

Can the Agency offer a light duty job with unclassified duties?

ANSWER: NO

RTW Options (cont.)

If a job is identified, consider the following:

- The job offered should be a classified position
- Ensure the position description is modified to include the injured worker's medical restrictions.

RTW with the Agency: Job Offers

Work release has come in from AP, SECOP, or IME:

- Review claim in ECOMP; confirm with CE work restrictions in file are “firm” (i.e., usable)
- Prepare a job offer (JO), temporary or permanent, based primarily on:
 1. Claimant’s work capacity “of record”
 2. Physical or psychological requirements of proposed new work
 3. **RED FLAG:** Confirm above two do match
 4. Complete other factors required for the JO
- Review, understand fully, and make clear to claimant and OWCP the new work; ask questions, get details

RTW with the Agency: Job Offers (cont.)

- Do not include job “requirements” such as “Other duties as assigned”, “Etc.”, “and so on”; OWCP will reject offer as incomplete, vague, ambiguous, or unclear
- If not entirely sure what to include in a JO, contact your DoD Advisor
- Any doubts after drafting JO, consult with DoD Advisor before issuing JO to claimant/OWCP/AP
- Exchange actual drafts with DoD Advisor for review and comment

Reemployment with the Agency (cont.)

Before the job offer process begins, the Agency should have medical documentation from the treating physician that clearly states the job duties that the employee can or cannot perform.

Medical documentation can be presented by the following:

- Form CA-17 (Duty Status) or
- Form CA-20 or
- Narrative Medical Report signed by the treating physician

Job Offer Elements

The employing agency may contact the employee by telephone to advise that a job is available, but the offer must be confirmed in writing within 2 days.

- Job offer sent by certified mail
- Copy of job offer sent to OWCP

Job Offer Elements (cont.)

Written job offer letter must include:

- Description of the duties to be performed
- Specific physical requirements of the position and any special demands of the workload or unusual working conditions
- The organizational and geographical location of the job
- Grade and salary of the job

Job Offer Elements (cont.)

Written job offer letter must include:

- Required work days and hours
- Date on which the job will be available
- Date by which a response to the job offer is required

Job Offer Response

Employee has only 3 choices

- Accept the offer
- Refusal with no explanation
- No response

Note: If employee is offered a lesser salary than the date of injury salary, DOL will pay the difference

Job Offer Refusal

If employee refuses the job offer, DOL will make a formal ruling on whether the job offered is suitable or not.

If DOL rules the job offer suitable, the employee will be given 15 days to return to work. If not, DOL will terminate compensation entitlement. The employee would still be entitled to medical benefits if applicable.

Formal OWCP Conferences

ICPA can request of CE a Formal Conference to resolve issues impeding job offer efforts, for example:

- Rejection of a JO and/or refusal to return to work
- Abandonment of the job offered
- Lack of cooperation with Nurse Intervention
- Lack of cooperation with Vocational Rehabilitation
- Overpayments discovered by EA

Returning Back to Agency Rolls

Medical release to work Full-Time

- When employees return back to work 8 hours, DOL cease paying HBI premiums and return enrollment back to the employing Agency

Medical release to work part-time but DOI job was full-time

- When employees are released to work 4 hours and DOL is paying the difference in pay, The SF-52 action to “return to duty” should indicate **full-time status**.

Returning Back to Agency Rolls (cont.)

- DOL will continue making the HBI deductions from the compensation payments

Note: If employee receives an indebtedness letter from DFAS, the ICPA can contact their DoD Management Advisor for assistance in obtaining proof that DOL made HBI deductions while on compensation.

RTW

QUESTIONS